REMARKS

Claims 1 – 20 are pending in the application. Claims 1 – 4, 9, and 11 – 20, which were previously withdrawn from consideration, have been canceled, without prejudice to the filing of a divisional or continuation application. Claim 5 has been rejected under 35 U.S.C. Section 102(e) as anticipated by Roberts. Claim 10 has been rejected as unpatentable over Roberts and Lennox. Reconsideration of the claims in view of the amendments and following remarks is respectfully requested.

Claim 5 recites a biopsy needle assembly sized for percutaneous insertion into a patient, which includes three basic components: an introducer shaft, a biopsy needle, and a stylet for cauterizing the insertion track. The biopsy needle interacts with the introducer shaft and is "guided thereby". Claim 5 has been amended to clarify that the conductive stylet is supported in the introducer shaft and is coupled to a radio frequency cauterization source through an insulated conductor, and to clarify that a portion of the stylet is adapted to be exposed to tissue in the patient to cauterize the insertion path of the introducer shaft.

Roberts discloses an assembly 10 for taking a biopsy sample. The assembly 10 comprises two basic components: a sheath 12 and a resecting device 14. Electrodes 22a and 22b are provided on the outside of the sheath, and can be used to cauterize tissue. The sheath is disclosed to be constructed of Teflon or other flexible material, and importantly, as to require "additional strength" from the resection device "to prevent the sheath from bucking" (column 5, lines 62 – 64). In Figs. 4a – 4f, the assembly 10 is shown inserted into an endoscope 50 for removal of a polyp 46. The endoscope 50 is not a part of either the disclosed or claimed assembly, but is a separate component. Furthermore, the endoscope is inserted into a pre-existing body cavity, the colon, and therefore neither the endoscope or the assembly 10 is inserted percutaneously.

The biopsy assembly recited in claim 5, therefore, differs from the biopsy assembly disclosed by Roberts in a number of important ways. First, the biopsy assembly of claim 5 is sized and dimensioned for percutaneous insertion. The Roberts assembly is not disclosed to be sized and dimensioned for percutaneous insertion, and, in fact, is shown inserted within specific body cavities rather than

percutaneously. Secondly, the biopsy assembly of claim 5 includes at least three components: an insertion shaft, a biopsy needle, and a conductive stylet. The Roberts assembly includes only a sheath and a resection device. The Roberts assembly fails to disclose any element which could be considered equivalent to a stylet as recited in claim 5. Additionally, the sheath 12 requires "additional strength" from the resecting device to "prevent the sheath 12 from buckling" (column 5 lines 62 – 64), and therefore is not intended to and cannot "guide the insertion of a biopsy needle" as recited in claim 5. The resection device, rather, is used to guide the sheath.

There are, therefore, a number of substantial distinctions between the assembly as disclosed in Roberts and the assembly as recited in claim 5, as amended. In view of these distinctions, the Applicants respectfully request that the rejection of claim 5 under 35 U.S.C. Section 102(e) be withdrawn, and that claims 5 and 6 – 8 be allowed.

Claim 10 has been rejected as unpatentable over Roberts in combination with Lennox. Claim 10 recites a biopsy needle assembly including an introducer shaft sized for percutaneous insertion into a patient, a biopsy needle interfitting with the introducer shaft to be guided by the introducer shaft, and a temperature sensor positioned at an electrically conductive surface of the introducer shaft. As discussed above with reference to claim 5, Roberts discloses neither an introducer shaft capable of guiding a biopsy needle, nor any device intended for percutaneous insertion. Lennox discloses an RF ablation device of standard construction. This device also does not disclose an introducer shaft capable of guiding a biopsy needle. Therefore, the Applicants submit that claim 10 cannot be obvious in view of the cited references, and respectfully request that claim 10 be allowed.

For these reasons, it is believed that claims 5-8 and 10 are in condition for allowance, and a notice of allowance is respectfully requested.

No fees are believed necessary to enter this amendment. However, if any fees are necessary, please charge Deposit Account 17-0055.

Respectfully submitted,

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